

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2002-091918

12/07/2010

JUDGE PRO TEM LAWRENCE J. MARKS  
FOR COMMISSIONER ALYSSON H. ABE

CLERK OF THE COURT  
L. Hart  
Deputy

IV-D ATLAS NO. 000647014800  
STATE OF ARIZONA, EX REL, DES  
JESSICA ELIZABETH SCAPELLATI

KELLIE N WELLS

AND

DEREK PAUL LUBINSKI

DEREK PAUL LUBINSKI  
1000 W ENCINAS STREET  
GILBERT AZ 85233

Booking No. P699466

AG-CHILD SUPPORT-EAST VALLEY  
OFFICE  
COMM. NEWCOMB  
JUDGE ABRAMS  
WORK FURLOUGH-APO  
DEREK PAUL LUBINSKI P699466  
MCSO INMATE MAIL  
PHOENIX AZ 00000

**IV-D ENFORCEMENT HEARING**

Courtroom 404 - SEF

1:57 p.m. This is the time set for Review/Enforcement Hearing arising from Petitioner/Mother's pro per *Petition and Order to Show Cause Re: contempt* filed on January 8, 2010. Petitioner/Mother, Jessica Scapellati (hereinafter referred to as "Mother"), is present with above-named counsel. Respondent/Father, Derek Lubinski (hereinafter referred to as "Father"), is present on his own behalf. The State is represented by Assistant Attorney General, Kathie A. Pearson.

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**LET THE RECORD REFLECT** the Courtroom Clerk has updated Father's address in ICIS as reflected on the Updated Address Information form filed this date.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Prior to commencement of proceedings, Jessica Scapellati and Derek Lubinski are sworn.

Counsel for the State advises the Court that Father is currently incarcerated on a Child Support Arrest Warrant issued on September 7, 2010 with a cash purge in the amount of **\$6,000.00**. Father's child support arrears total approximately \$6,000.00. The last payments Father made on his child support obligation are as follows:

- Two payments of \$94.00 in November 2009 from unemployment benefits.
- One payment of \$14.07 in October 2009 by wage assignment.

Father made no payment toward his child support obligation in 2010 as of this date.

Counsel for the State advises the Court that Father indicates he has picked up some landscaping work will have \$200.00 this Friday. The Court is advised that this hearing was set to discuss Father's employment status and possible modification of his work release status. Father is not currently gainfully employed at this time but is actively seeking employment.

Counsel for the State makes the recommendation that the Court affirm the cash purge of \$6,000.00.

Ms. Wells advises the Court that Mother is agreement with the State's recommendations. Ms. Wells further advises the Court that pursuant to the DES website, Father made a payment of \$59.00 on January 8, 2010 and that his child support arrears total \$7,434.01.

Father testifies regarding his search for employment. Father requests that he be released from the cash purge in order to prove to the Court that he can make payments on his child support obligation. Father agrees that if no payments are made by the time the Accountability Court hearing occurs, he shall be reincarcerated.

Based upon the testimony presented herein,

**IT IS ORDERED** affirming the Court's previous finding of contempt.

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**IT IS FURTHER ORDERED** affirming the cash purge of **\$6,000.00**.

**ANY MONIES PAID AS AND FOR PURGE SHALL BE FORWARDED TO THE CLERK OF THE COURT/CLEARINGHOUSE AND APPLIED TOWARD SUPPORT/ARREARAGE PAYMENTS.**

**IT IS FURTHER ORDERED** affirming Father's participation in the work Release Program from Monday through Saturday from 7:00 a.m. to 7:00 p.m.

**IT IS ORDERED** affirming Father's current child support obligation of \$323.00 per month.

**IT IS FURTHER ORDERED** affirming Father's payment on child support arrears of \$106.59 per month.

It is the responsibility of the party obligated to pay support/maintenance to pay the support to the following:

**Support Payment Clearinghouse  
P. O. Box 52107  
Phoenix, Arizona 85072-2107**

Payment should show the case number and/or ATLAS case number, the name of the party paying support, and the name of the party who will receive the payment.

**WARNING:** If payments are made directly to the person who is to receive the support, the payments may be considered a gift and no credit will be given towards the support obligation.

Any change in the paying party's employment and any change in the residential address of either party **must** be submitted to the Clerk's Office, in writing, within ten (10) days of the change (A.R.S. 25-322(C)). Failure to notify the Clerk's Office of any change may be considered contempt of Court.

**IT IS ORDERED** affirming the **IV-D Accountability Court Review Hearing** set for **January 4, 2011 at 1:30 p.m.** before Comm. Casey Newcomb.

**Father is hereby advised that in the event he fails to appear, the Court will proceed in his absence and make a decision based on the testimony and information presented,**

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**which may include entering a default judgment and revoking Father's Work Release status.**

Between now and the aforementioned hearing, the Court expects the Obligor to pay the court-ordered obligation each and every month. The payment is due on the first of each month and is late at the end of each month.

**IT IS ORDERED** affirming the **Resolution Management Conference set for February 17, 2011 at 11:15 a.m. before Judge Abrams.**

2:12 p.m. Matter concludes.

*A clerical error having been made,*

**IT IS ORDERED** nunc pro tunc correcting the IV-D Enforcement Hearing Set minute entry dated November 30, 2010 as follows:

- The Resolution Management Conference before Judge Abrams is set for **February 17, 2011** at 11:15 a.m. (not February 17, 2010), as reflected in the minute entry.
- First paragraph should read "The State is represented by Assistant Attorney General, Gordana Perisic (not Gordana.Pearson).

**NOTICE:** A child should not be brought to the Courthouse to be present during a Court proceeding except in the circumstance that the child is to be interviewed by the Judge in chambers or unless the child's presence is otherwise required for the Court proceeding. Whenever a child is brought to the Courthouse, it is the responsibility of the party who brings the child to arrange for appropriate care and supervision of the child outside of the courtroom and judicial offices. The duties of Court personnel do not permit them to perform this function.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

**PLEASE NOTE: IMPORTANT INFORMATION RE: CD/VIDEOTAPE  
FEE CURRENTLY IN EFFECT**

This Courtroom uses an electronic recording system for the record. All CDs and videotapes will be provided by the Court, regardless of when the copies are made. A fee of

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\$20.00 will apply to all copies requested, either on the day of the hearing or for hearings recorded on an earlier date. Forms to request a recording of a proceeding are available in the Self-Service Centers and in the JAVS and FTR courtrooms.

If a party wants a court reporter to record a proceeding in this Court, a written request must be filed at least seven (7) days before the commencement of the proceedings.

A person requesting a daily copy CD or videotape must complete the appropriate request form and pay the applicable fee at the Self-Service Center. Upon payment of the appropriate fees through the Self-Service Center, a receipt will be issued which shall then be presented to Court staff for preparation of the CD or videotape in the customary manner.

A person wanting a copy of a hearing from a previous occasion must contact Ken Crenshaw at 602-506-7100.